

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SCOTT TROY COOK,
Plaintiff,

vs.

MATTHEW CATE, et al.,
Defendants.

No. C 11-06581 YGR (PR)

**NOTICE REGARDING INABILITY TO
SERVE DEFENDANT D. VACQUEZ**

Service has been ineffective on Defendant D. Vacquez. The Court has been informed that the litigation coordinator at Pelican Bay State Prison ("PBSP") was "unable to identify a D. Vacquez as ever working at [PBSP]." (Feb. 19, 2013 Letter from L. Padon at 1.)


While Plaintiff may rely on service by the United States Marshal, "a plaintiff may not remain silent and do nothing to effectuate such service. At a minimum, a plaintiff should request service upon the appropriate defendant and attempt to remedy any apparent defects of which [he] has knowledge." *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). If the marshal is unable to effectuate service and the plaintiff is so informed, the plaintiff must seek to remedy the situation or face dismissal of the claims regarding that defendant under Federal Rule of Civil Procedure 4(m). *See* Fed. R. Civ. P. 4(m) (providing that if service of the summons and complaint is not made upon a defendant in 120 days after the filing of the complaint, the action must be dismissed without prejudice as to that defendant absent a showing of "good cause"); *see also Walker v. Sumner*, 14 F.3d 1415, 1421-22 (9th Cir. 1994) (prisoner failed to show cause why prison official should not be dismissed under Rule 4(m) because prisoner did not prove that he provided marshal with sufficient information to serve official).

No later than **twenty-eight (28) days** from the date of this Order, Plaintiff must provide the Court with a current address for Defendant Vacquez. Plaintiff should review the federal discovery rules, Rules 26-37 of the Federal Rules of Civil Procedure, for guidance about how to determine the current address of this Defendant.

1 **If Plaintiff fails to provide the Court with the current address of Defendant Vaquez**
2 **within the twenty-eight-day deadline, all claims against this Defendant will be dismissed**
3 **without prejudice under Rule 4(m).**

4 IT IS SO ORDERED.

5 DATED: March 18, 2013


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
For the Northern District of California